

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RAFAEL DANIEL DE LA CRUZ-
JIMENEZ,

Plaintiff,

v.

D.C./FEDERAL BUREAU OF PRISONS,
ET AL.,

Defendants.

NO. 3:08-CV-0254

(JUDGE CAPUTO)

MEMORANDUM ORDER

Plaintiff Rafael De La Cruz-Jimenez seeks to file a Complaint (Doc. 1) against Defendants D.C./Federal Bureau of Prisons, Ronnie Hold, Cameron Lindsay, Stephen Wagner, Mr. DeRoberto, Ms. Koehn, and John MacDonald. He has also filed a motion to proceed *in forma pauperis* (Doc. 2) and a motion to appoint counsel. (Doc. 9.) The decision whether to grant or deny *in forma pauperis* (IFP) status rests within the sound discretion of the district court. See *Jones v. Zimmerman*, 752 F.2d 76, 78 (3d Cir. 1985). 28 U.S.C. § 1915 provides a two-step process for reviewing *in forma pauperis* petitions. The Third Circuit Court of Appeals has made it clear that this Court should first consider a litigant's financial status and determine whether he is eligible to proceed *in forma pauperis*, before assessing the merits of the underlying complaint. *Roman v. Jeffes*, 904 F.2d 192 (3d Cir. 1990).

Though Plaintiff has filed a motion which roughly outlines his financial situation, he has failed to complete the appropriate Affidavit/Declaration to Proceed In Forma

Pauperis, as required by the Court. In the 30 Day Administrative Order issued on February 11, 2008, the Order stated that the Plaintiff must either file the statutory filing fee of \$350.00 or file the proper application to proceed *in forma pauperis*. (Doc. 7.) The administrative order noted that “[a]lthough De La Cruz-Jimenez filed an application to proceed *in forma pauperis*, the form indicated the old filing fee of \$250.00. In addition, the Plaintiff did not file the required authorization form.” (Doc. 7.) An application to proceed *in forma pauperis* and an authorization form were enclosed with the order. (Doc. 7.)

Plaintiff has failed to comply with the terms of the February 11, 2008 Order within the given thirty (30) days. Therefore, the case will be dismissed without prejudice. As the Plaintiff has failed to submit the proper documentation for *in forma pauperis* status or the filing fee, Plaintiff’s motion to appoint counsel will also be denied.

NOW, this 13th day of March, 2008, **IT IS HEREBY ORDERED** that:

- (1) Plaintiff’s Motion to Proceed In Forma Pauperis (Doc. 2) is **DENIED**.
- (2) Plaintiff’s Motion to Appoint Counsel (Doc. 9) is **DENIED**.
- (3) The case is **DISMISSED** without prejudice.
- (4) The Clerk of the Court shall mark this matter **CLOSED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge